

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

INSTRUCTURE, INC.,
a Delaware corporation,

Plaintiff/
Counterclaim-Defendant,

v.

CANVAS TECHNOLOGIES, INC.,
a Delaware corporation,

Defendant/
Counterclaim-Plaintiff.

Civil No. 2:21-cv-00454-DAK-CMR

**DECLARATION OF BEN HERMAN
IN SUPPORT OF CANVAS
TECHNOLOGIES, INC.'S
OPPOSITION TO INSTRUCTURE,
INC.'S MOTION FOR
PRELIMINARY INJUNCTION**

District Judge: Hon. Dale A. Kimball

Magistrate Judge: Hon. Cecelia M. Romero

I, BEN HERMAN, declare as follows:

1. I am the Chief Executive Officer of Canvas Technologies, Inc. ("Canvas"), the Defendant/Counterclaim-Plaintiff in the above-captioned matter. I submit this declaration in support of Canvas's Opposition to Instructure, Inc.'s ("Instructure") Motion for Preliminary Injunction. I am fully familiar with the facts set forth in this declaration from personal knowledge or from documents that I have reviewed unless otherwise stated. If called as a witness, I could and would testify competently under oath to the facts contained herein.

2. Canvas was founded in 2017 under the name Jumpstart Ventures, Inc. ("Jumpstart") as a diversity recruiting platform created to help companies hire diverse teams.

3. Canvas's online cloud-based platform permits companies to hire diverse teams with insight and transparency into the diversity of applicants in the hiring process and also allows prospective employees to search for employment opportunities. Companies utilize Canvas's

platform to understand the diversity of their recruiting pipeline, hire underrepresented talent, conduct virtual events, and measure the efficacy of their diversity recruiting initiatives.

4. In May 2021, Jumpstart announced that it was changing its name to “Canvas.”

5. In May 2021, Canvas entered into an agreement with Branded Holding Group, LLC (“BHG”) to lease the domain name “www.canvas.com.”

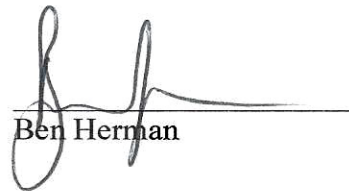
6. On June 2, 2021, Canvas received a letter from Instructure, through its counsel, alleging that Canvas was infringing Instructure’s CANVAS trademark. A true and correct copy of this letter is attached hereto as Exhibit 1. In this letter, Instructure specifically referred to its “Portfolium” platform as a “recruiting system.”

7. On July 15, 2021, Canvas, through its counsel, notified Instructure of Canvas’s acquisition of rights in the CANVAS trademark.

8. I am not personally aware of Instructure ever initiating legal action against Jobvite, Inc. for trademark infringement of the CANVAS trademark.

I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge, information, and belief.

Dated: August 26, 2021



Ben Herman